



THE CITY OF NEW YORK
LAW DEPARTMENT
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September 23, 2021

BY ECF

Honorable James R. Cho
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Justin Cohen v. City of New York, et al. 21-CV-4821 (AMD)(RML)

Your Honor:

I am a Senior Counsel in the Special Federal Litigation Division of the New York City Law Department. I write to respectfully request a sixty (60) day enlargement of time, from September 30 to November 30, 2021, for defendant City to answer or otherwise respond to the complaint, and corresponding *sua sponte* extension for the defendant officers to answer or otherwise respond to the complaint. This is defendant City's first request for an enlargement of time. Plaintiffs' counsel consents to this request.

A review of the docket shows that defendants City of New York, Bill de Blasio, Thomas Demery, Terence Monahan, and Dermot Shea were allegedly served on or about September 9, and their answers are currently due by September 30. See Docket Nos. 10-12, 14-15. Defendant Adnan Hussain was allegedly served on or about September 8, and their answer is currently due by September 29. See Docket No. 18.

Before this Office can adequately respond to the complaint, we will need to conduct an investigation into the facts of the case, and the requested enlargement will provide this Office sufficient time to obtain plaintiffs' medical records, as well as any records that may be sealed pursuant to New York Criminal Procedure Law § 160.50. Upon information and belief, such releases have not yet been executed and received by this Office. Accordingly, this enlargement is required so that this Office to obtain properly executed releases from plaintiffs. Once the releases are obtained, the City will require time to request and obtain the underlying

documentation, properly investigate the allegations of the complaint and fulfill our obligations under Rule 11 of the Federal Rules of Civil Procedure.

Moreover, we must ascertain whether the purported individual defendant officers have been properly served with the summons and complaint. Upon information and belief, no officer has requested legal representation from the Office of the Corporation Counsel. A decision concerning this Office's representation of the officers has not yet been made, and accordingly, this request for an extension of time is not made on their behalf. However, given the time involved in determining the representation of a police officer, and in the interest of judicial economy, we would ask that the court, *sua sponte*, extend the time for the individual defendants' to answer until November 30, 2021.

Once proper service has been effectuated, pursuant to Section 50-k of the New York General Municipal Law, this Office must determine, based on a review of the case, whether we may represent these officers. Each officer must then decide whether they wish to be represented by this Office. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)). Only after this procedure has been followed can we determine how to proceed in this case.

In view of the foregoing, defendant City respectfully requests a sixty (60) day enlargement of time, from September 30 to November 30, 2021, for defendant City to answer or otherwise respond to the complaint. Additionally, the City requests that the Court, *sua sponte*, grant a corresponding extension for the individual officers to answer or otherwise respond to the complaint.

Thank you for your consideration herein.

Respectfully submitted,

/s/

Erin Teresa Ryan
Senior Counsel
Special Federal Litigation Division

cc: All Counsel (By ECF)